

**1. Rejection of Claims 1-10 Under 35 U.S.C. §112, 1<sup>st</sup> Paragraph**

Applicant respectfully traverses the rejection of claims 1-10. In particular, Applicant's specification states on page 1, lines 3-8,

The present invention relates to a polyethylene composition with **multimodal molecular mass distribution**, which is particularly suitable for blow moulding of canisters with a capacity in the range from 2 to 20 dm<sup>3</sup> (l)(jerry cans), and to a process for preparing this polyethylene composition in the presence of a catalytic system composed of a Ziegler catalyst and a co-catalyst, by way of a multistage reaction process composed of successive slurry polymerizations. (Emphasis added)

Therefore, Applicant respectfully believes claims 1-10 are adequately enabled with respect to polyethylene compositions comprising a multimodal molecular mass distribution. Accordingly, for this reason alone, Applicant respectfully believes the current rejection should be withdrawn.

Notwithstanding, the originally filed claims, as well as the currently pending claims, claim a polyethylene moulding composition comprising a multimodal molecular mass distribution. Accordingly, there is a strong presumption that an adequate written description of the claimed invention is present when the application is filed. *In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976). Further, "rejection of an original claim for lack of written description should be rare." See MPEP §2163 (II)(A). Moreover, the inquiry into whether the description requirement is met must be

determined on a case-by-case basis and is a question of fact. *In re Wertheim*, 541 F.2d 257, 262, 191 USPQ 90, 96 (CCPA 1976). A description as filed is presumed to be adequate, unless or until sufficient evidence or reasoning to the contrary has been presented by the examiner to rebut the presumption. *In re Marzocchi*, 439 F.2d 220, 224, 169 USPQ 367, 370 (CCPA 1971). The Examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in Applicant's disclosure a description of the invention defined by the claims. *Wertheim*, 541 F.2d at 263, 191 USPQ at 97. See MPEP §2163.04. As such, Applicant respectfully believes the current rejection should be withdrawn.

In light of the above, Applicant respectfully believes the current rejection should be withdrawn. Accordingly, allowance of the claims is earnestly requested.

## **2. Rejection of Claims 1-10 Under 35 U.S.C. §112, 2<sup>nd</sup> Paragraph**

Applicant respectfully traverses the rejection of claims 1-10.

In particular, the Examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. 112, second paragraph, is whether the claim meets the threshold requirements of clarity and precision, and not whether more suitable language or modes of expression are available. Additionally, the Examiner should allow claims which define the patentable subject matter with a reasonable degree of particularity

and distinctness. See MPEP 2173 and 2173.02. "The requirement to 'distinctly' claim means that the claim must have a meaning discernible to one of ordinary skill in the art when construed according to correct principle. . . . Only when a claim remains insolubly ambiguous without a discernible meaning after all reasonable attempts at construction must a court declare it indefinite." *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1366, 71 USPQ2d 1081, 1089 (Fed. Cir. 2004). In this respect, Applicant respectfully believes one of ordinary skill would appreciate the metes and bounds of claims 1-10, and claims 1-10 fully comply with 35 U.S.C. §112. Accordingly, for this reason alone, Applicant respectfully requests the rejection to be withdrawn.

Notwithstanding, in the field of polyethylene, it is well known that a composition having a molecular mass distribution comprises a plurality of polymer fractions having distinct molecular masses. In particular, a composition having a bimodal Mw distribution comprises two polymer fractions; in particular, a first ethylene fraction having a molecular mass which is distinct from the molecular mass of a second ethylene polymer fraction. In other words, a composition having a bimodal Mw distribution comprises a low molecular mass polymer fraction, as well as a high molecular mass copolymer fraction. Each of the terms "low" and "high" acquires a clear meaning in the context of biomodal compositions, since the two polymer fractions have distinct molecular masses (i.e. the low

molecular mass ethylene polymer has a molecular mass lower than the other high molecular mass polymer fraction). As such, no clarity issue arises because the terms "low" and "high" are used in combination and comparatively, and hence in an unambiguous manner.

Analogously, a multimodal composition comprises at least three polymer fractions having distinct molecular masses. So the terms "low", "high", and "ultrahigh" refer to polymers having different and ascending molecular masses, wherein the order of masses is clearly set as "low", "high", and "ultrahigh". Accordingly, Applicant respectfully believes this is the information conferred to a person having ordinary skill in the art by the terms "low", "high", and "ultrahigh". Therefore, Applicant respectfully believes one skilled in the art would understand the meaning of the terms "low", "high", and "ultrahigh", and would appreciate the metes and bounds of claims 1-10.

In light of the above, Applicant respectfully believes the current rejection should be withdrawn. Accordingly, allowance of the claims is earnestly requested.

#### **CONCLUSION**

Based upon the above remarks, Applicant respectfully believes the current rejections should be withdrawn. The Examiner is therefore respectfully requested to reconsider and withdraw the rejections, and allow pending claims 1-10. Favorable action with an early allowance of the claims pending in this application is

earnestly solicited.

The Examiner is welcomed to telephone the undersigned practitioner if she has any questions or comments, or such action would expedite prosecution of this application.

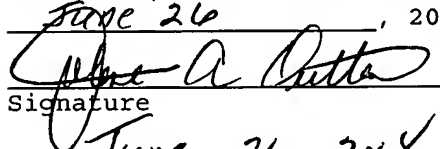
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on June 26, 2008.

  
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